

REMARKS

Claims 1 and 6-15 are pending.

Claim Rejections Under § 103

A. Claims 1, 6, 11, 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,834,247 to Oshima et al, in view of U.S. Patent Application Publication No. 2003/0155354 to Tucker and further in view of U.S. Patent No. 5,294,470 to Ewan, and further in view of U.S. Patent No. 4,721,638 to Matsuguchi et al;

B. Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oshima in view of Tucker and further in view of Ewan in view of Matsuguchi as applied to claim 1 above and further in view of U.S. Patent No. 4,640,838 to Isakson et al; and

C. Claims 9, 10, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Oshima in view of Tucker and further in view of Ewan in view of Matsuguchi as applied to claims 1 and 11 above, and further in view of GB 2,358,175 to Sato.

The Examiner maintains those portions of the rejections based on Oshima, Tucker, Sato and Ewan as set forth in the Office Action dated March 30, 2010.

Applicants respectfully traverse.

Though acknowledging that modified Oshima does not disclose additional indicia above and below the tamper indicating seal of Ewan; the Examiner cites Matsuguchi for teaching a tamper indicating seal with a pigmented layer, which upon separation forms negative pigmented and void parts and which also has indicia formed above and below the pigment separation layer, to further indicate to the consumer the status of the seal, and which “are shown overlap and be larger than the void parts formed during the separation of the pigment layer.”

Matsuguchi discloses a sticking material for preventing re-sticking having an adhesive layer, a second layer laminated on one main surface of the adhesive layer, a peeling agent layer laminated on the second layer and a first layer laminated on the peeling agent layer. See, Abstract. More particularly, Matsuguchi discloses a sticking material comprising an adhesive layer, a second layer laminated on one main surface of the adhesive layer, a peeling agent layer laminated on the second layer and a first layer laminated on the peeling agent layer by coating a resin, wherein the peeling agent layer facilitates the separation between the second and the first layers. See, col. 2, lines 3-12.

According to Matsuguchi, since the first and second layers are temporarily adhered to one another whereby re-sticking is impossible via the separation layer, when any attempt is made to tear the sticking material off from the opening of the package, the first layer will release from the second layer and the re-sticking thereof is not possible. In this regard, when the second layer has been cut or torn, since it will not return to the original state, the separation of the second layer can be distinguished, i.e., separation of the sticking material can be clearly seen by external examination. See, col. 2, lines 15-21.

More particularly, Matsuguchi, discloses at col. 7, lines 48-60 that

“On the surface of the surface layer 220, a printed layer 224 is formed, and also on the side of the adhesive layer 214 on the resin layer 216, a printed layer 222 is formed. In this embodiment, on the main surface of the surface layer 220 on the side of the peeling agent layer 218, a solid printed layer 223 such as silver printing is formed. Thus, the suppression is further increased by the printed layer 223, and seeing through the printed layer 222 from the side of the surface layer 220 becomes difficult. Moreover, by forming the printed layer 223, the surface layer 220 will be filled and film stability of the peeling agent layer 218 may be attained.”

Matsuguchi, further discloses at col. 8, lines 44-58, that:

“Since the resin layer 216 is firmly stuck onto the sealed portion of the package with the adhesive layer 214, as shown in FIG. 11, when attempting to tear off the sticking material 210, only the surface layer 220c of the surface layer 220 with the peeling agent layer 218 can be removed. The other surface layer 220b will remain on the sealed portion together with the resin layer 216, by the adhesive layer 214. Accordingly, when the surface layer 220 has been removed once the surface layer 220c will be torn and the letter, such as the picture line ‘unsealed’ on the printed layer 222 can be seen through the resin layer 216, and resticking the surface layer 220c on the resin layer 216 and restoring to the original state are not really possible. Thus, the unsealed state can be recognized at a glance.”

In Matsuguchi, a solid printed layer 223 such as silver printing is formed to increase the suppression and seeing through the printed layer 222 from the side of the surface layer 220 becomes difficult. Thus, the purpose and the technical features of Matsuguchi are entirely different from those of the presently claimed invention.

In addition, the Examiner takes the position that the printed layers 224 and 222, of Matsuguchi, being formed above and below the pigment separation layer, and which further indicate the status of the seal are shown to overlap and be larger than the void parts formed during the separation of the pigment layer 223. See, Fig. 11.

More particularly, at page 8 of the Office Action, the Examiner asserts that the “corresponds” language used in Claim 1 “does not necessarily require that the pigment parts and void parts occupy the same space when the two layers are joined.”

Applicants respectfully disagree.

An applicant is entitled to be his/her own lexicographer. In this regard, Applicants disclose at paragraphs [0019] and [0020]:

As shown in Fig. 2(A), a pattern 12 having a void part 11 is solid-printed on the vapor release seal part 3 of the packaging material of one of the surface and the back constituting the packaging pouch 1. Meanwhile, as shown in Fig. 2(B), a pattern 13 corresponding to the void part 11 of Fig. 2(A) is printed on the vapor release seal part 3 of the other packaging material. The pattern 13 is preferably formed to be larger than the void part 11 so that alignment upon heat-sealing of the packaging pouch may be easily performed.

The vapor release seal part 3 is formed by superimposing the void part 11 of each of the surface and back packaging materials constituting the packaging pouch 1 and the pattern 13 corresponding to the part on each other, and by subjecting the resultant to heat-sealing. As a result, as shown in Fig. 2(C), the vapor release seal part 3 is provided with a pattern 14, the entire surface of which is uniformly solid-printed. The weakened part 4 is formed in the vapor release seal part 3 by providing a through-hole simultaneously with or after the heat-sealing. [emphasis added].

In other words, in the context of the present application, Applicants use the term “corresponds” to mean that the printed pattern (pigment parts) and the void parts occupy the same space when the layers are joined (i.e., superimposed). Thus, the cited references fail to disclose or suggest the structure of the presently claimed mark developing means.

Isakson and Sato fail to make up for the deficiencies of Oshima, Tucker, Ewan and Matsuguchi discussed above.

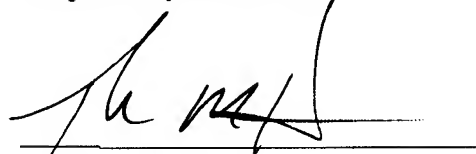
Thus, Oshima, Tucker, Ewan, Matsuguchi, Isakson and Sato fail to render obvious the present claims. Accordingly, withdrawal of the rejections is respectfully requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Th M Hunter', is written over a horizontal line.

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CUSTOMER NUMBER

Date: August 10, 2010